

1 The Honorable Barbara J. Rothstein
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 CHANDRASI GAEKWAR,

9 v. Plaintiff,
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11 AMICA MUTUAL INSURANCE COMPANY,

12 Defendant.

Civil Action No. 2:22-cv-1551-BJR

**ORDER DENYING MOTION FOR
SANCTIONS**

14 **I. INTRODUCTION**

15 Plaintiff Chandrasi Gaekwar (“Plaintiff”) brings this action against Defendant Amica
16 Mutual Insurance Company (“Amica”) for breach of contract, bad faith, and violation of the
17 Insurance Fair Conduct Act (“IFCA”), as well as the Washington Consumer Protection Act
18 (“WCPA”). Currently before the Court is Amica’s motion for sanctions pursuant to Federal Rule
19 of Civil Procedure 37. Dkt. No. 38. Plaintiff opposes the motion. Dkt. No. 41. Having reviewed
20 the motion, opposition thereto, the record of the case, and the relevant legal authority, the Court
21 will deny the motion. The reasoning for the Court’s decision follows.

23 **II. BACKGROUND**

25 Plaintiff sought discovery of Amica’s confidential and proprietary training materials as
26 part of this litigation and, with this Court’s encouragement, the parties agreed on a protective
27 order limiting the dissemination of the foregoing materials. Among other limitations, the

protective order required that if any party intended to file the confidential materials with the Court, “[a]dvance notice of the intent to so file documents shall be given to the other parties hereto at least nine court days before the same are filed in order to give any party the right to move for an order to seal any such documents.” Dkt. No. 16 at 2. The protective order was drafted by Plaintiff’s counsel.

At 12:02 pm on August 31, 2023, Plaintiff filed a declaration in support of his opposition to Amica's motion for partial summary judgment. Several exhibits attached to the declaration were comprised of documents from Amica's confidential training materials. Amica's counsel emailed Plaintiff's counsel at 1:19 pm requesting that he withdraw the confidential materials. Plaintiff's counsel responded at 2:36 pm, asserting that the privilege had been waived, but at 3:19 pm filed a revised declaration that did not include the confidential materials. Thereafter, Plaintiff's counsel drafted a stipulated motion to seal the confidential documents and sent the proposed stipulation to Amica's counsel. Amica's counsel revised the stipulated motion, and it was filed at 9:43 am on September 1, 2023. The motion was granted and an order sealing the documents was entered that same day.

III. DISCUSSION

Amica moves this Court to impose sanctions of \$5,000 against Plaintiff pursuant to Federal Rule 37, which authorizes a district court to sanction a party for not obeying a discovery order. Fed. Rule Civ. P. 37(b)(2). Amica asserts that sanctions are warranted because (1) Plaintiff's counsel violated the protective order he drafted, (2) the brief that the confidential materials were filed in support of did not rely on the materials, and (3) Plaintiff's counsel clearly knew the materials were confidential because he labeled them as such in the declaration. Plaintiff

1 counters that sanctions are not warranted because his counsel made a simple mistake and
2 corrected it within two hours of being made aware of the error by Amica's counsel.

3 "The scope of sanctions for failure to comply with a discovery order is committed to the
4 sound discretion of the district court." *Payne v. Exxon Corp.*, 121 F.3d 503, 510 (9th Cir. 1997).
5 Here, under the circumstances presented—namely that this is a first-time offense that was
6 corrected within two hours of the error being brought to Plaintiff's attention, that Amica has not
7 established that it was prejudiced by the error, and that Plaintiff's attorney admitted to his error—
8 the Court concludes that sanctions are not warranted. However, the Court further notes that
9 Plaintiff's error could have been avoided with due diligence on the part of his counsel and the
10 Court expects such diligence in the future. Any further violations of the parties' protective order
11 will not be tolerated.

13 **IV. CONCLUSION**

15 For the foregoing reasons, Amica's motion for sanctions is HEREBY DENIED.

16 Dated this 6th day of December 2023.

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20 Barbara Jacobs Rothstein
U.S. District Court Judge